

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL SIDE APPELLATE JURISDICTION

FIRST APPEAL NO.11 OF 2006

The Regional Director,
Employees' State Insurance
Corporation, Mumbai 13.

Appellant

vs.

Mittal Chamebrs Owners' Premises
Co-op. Society Limited.

Respondents

Mr.H.V.Mehta for the appellant.

Mr.M.S.Karnik for respondent no.1.

CORAM : ANOOP V. MOHTA,J.

DATED : 2nd November, 2007

JUDGMENT:

On 10.4.1995, the Corporation informed the respondent society in Form C-11 that the respondent society was covered under the provisions of the Act and to start compliance w.e.f. 1.11.1986.

2. On 6.7.1995, the respondents informed the Corporation that the society is not amenable to the provisions of the Act.

3. On 19.9.1995 the Corporation finally conveyed the respondents that the society is covered under the Notification dated 18.9.1978 issued by the Govt. of Maharashtra under the provisions of Section 1(5) of the ESI Act, on the basis of number of employees employed by the respondents society. The respondent society challenged the coverage of the society under the Notification dated 18.9.1978 before the Employees

Insurance Court by filing Application (ESI) No.37 of 1996. The Corporation strongly opposed the application by filing their written statement.

4. On 27.9.2005, the Employees Insurance Court, after hearing both the parties, allowed the application of the respondent society and declared that the respondent society is not covered by Govt. of Maharashtra Notification dated 18.9.1978 and consequently it is not liable to be covered under the ESI Act.

5. Being aggrieved by the judgment and order dated 27.09.2005 the Appellant begs to approach this Court by filing the present First Appeal under Section 82 of the ESI Act praying for quashing and setting aside the said judgment and order dated 27.9.2005 passed by the Employees' Insurance Court at Mumbai in Application (ESI) No.37 of 1996.

6. In view of the reasoning given in the judgment dated 2nd November, 2007 in First Appeal No.844 of 2004 along with other First Appeals, this First Appeal is also dismissed and disposed of accordingly.

. No order as to costs.

(ANOOP V. MOHTA,J.)